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OFFICE OF PETITIONS

In re Application of	:	
Infantino et al.	:	
Application No. 10/081,938	:	ON PETITION
Filed: 22 February, 2002	:	
Attorney Docket No. HANN-0002	:	

This is a decision in reference to the petition under 37 CFR 1.181 filed on 12 December, 2005, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on 28 April, 2005, for failure to submit a proper response to the final Office action mailed on 27 January, 2005, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 28 March, 2005. However, the amendment was determined not to place the application in *prima facie* condition for allowance, and On 14 April, 2005, an Advisory Action was mailed. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 16 November, 2005.

Petitioners assert that a timely reply was filed on 22 April, 2005. In support, petitioners have provided a copy of a "Replacement After Final Amendment" including a Certificate of Transmission dated 22 April, 2005, showing transmission via facsimile, and a copy of the Auto-Reply Facsimile Transmission sheet and sending unit's report, both showing a date of 22 April, 2005. It is noted that a copy of the amendment was previously filed on 1 June, 2005.

Petitioners' showing has been considered, but is not persuasive. The examiner has determined that the proposed amendment, a copy of which was supplied on 1 June, 2005, does not place the application in condition for allowance. As such, petitioners'

amendment would not have been a proper reply to the final Office action. The only proper reply to a final Office action is a Notice of Appeal, an amendment which places the application in *prima facie* condition for allowance, a Request for Continued Examination and submission, or a continuing application. As petitioners have not shown that a timely and proper reply to the final Office action was filed, the application is properly held abandoned.

Petitioners may wish to consider filing a petition to revive the application, accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**¹

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
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By FAX: (571) 273-8300
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401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹ 37 CFR 1.181(f).